



HON. SYLVIA O. HINDS-RADIX
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NEW YORK 10007

GREGORY ACCARINO
Assistant Corporation Counsel
gaccari@law.nyc.gov
Phone: (212) 356-1945

December 9, 2022

BY ECF

Honorable Colleen McMahon
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

12/12/22
OK - Colleen McMahon
MEMO ENDORSED

Re: Sonia Talavera as Administrator of the Estate of Herman Tito Diaz. v. City of New York, et al.
22 Civ. 06670 (CM)

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel for the City of New York, and attorney for defendant City of New York ("City") in the above-referenced matter. The City writes to respectfully request a one (1) week extension from Friday, December 9, 2022 until Friday, December 16, 2022 to fully comply and provide Plaintiff's Counsel the identities of the individuals listed in the Court's November 22, 2022 Scheduling Order. See ECF No. 18, Scheduling Order, November 22, 2022. Plaintiff's Counsel takes no position as to this request and defers to the Court. The undersigned apologizes for the late request and has been out of the country since Wednesday, December 7, 2022, returning Sunday, December 11, 2022. This request does not affect the Initial Conference scheduled for February 27, 2023. See ECF No. 18, Scheduling Order, November 22, 2022.

By way of background, since the Court issued its November 22, 2022 Order, the City has been in contact with the Department of Corrections ("DOC") to identify the individuals the Court required. Today, on December 9, 2022, the City provided Plaintiff's counsel with a letter identifying ten (10) individuals from DOC who, upon information and belief, were assigned to the unit where Mr. Herman Tito Diaz was housed on March 18, 2022, or were assigned any medical unit where Mr. Diaz was taken by other inmates. In addition, the City provided Plaintiff's Counsel with two medical staffers who pronounced Mr. Diaz as deceased on March 18, 2022 in the Eric M. Taylor Center ("EMTC") where Mr. Diaz was housed. The City is requesting this additional time to learn which, if any, DOC individuals were supposed to be on duty on March 18, 2022 in the above-mentioned areas, but were not. The City is also requesting this additional time to ensure

the list is complete, as well as to provide the service address for one singular identified individual who no longer works with DOC.

Second, the City has been engaged in the process of appointing Conflict Counsel to represent New York City Health and Hospitals Corporation in this case, and that process was finalized earlier this week. Because the Court's order included various personnel from both the Department of Corrections and New York City Health and Hospitals Corporation, the City would request one additional week to obtain this information.

The City takes seriously the pace and instruction of the Court's November 22, 2022, Court Order and apologizes for this final request.

Defendant City thanks the Court for its time and attention to this matter.

Respectfully submitted,

/s/ Gregory J.O. Accarino

Gregory J.O. Accarino
Assistant Corporation Counsel
Special Federal Litigation Division

cc: **By ECF**
Joshua Kelner, Esq.
Attorney for Plaintiff